

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12445 of Mary Gloria Monteiro, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3103.2) to permit a flat. The property is in the R-3 District at 1316 Potomac Street, N.W. (Square 1230, Lot 816).

HEARING DATE: June 28, 1977  
DECISION DATE: August 3, 1977

FINDINGS OF FACT:

1. The subject property is located in an R-3 Zone District at 1316 Potomac Street, N.W.
2. The subject property is presently improved with a two (2) story plus basement detached building.
3. The basement is rented as an apartment.
4. The premises is being used as a flat without a proper certificate of occupancy.
5. The R-3 Zone District does not permit the present use unless approved by the Board of Zoning Adjustment.
6. Applicant seeks permission for a variance from the use provisions of Sub-section 3103.2 to permit a flat.
7. When applicant purchased the property in 1970 the basement apartment was rented to a tenant.
8. The evidence of record reflects that the premises were used as a flat prior to May 12, 1958, and have been continuously used as a flat up till the present. If the applicant had obtained a proper certificate of occupancy prior to May 12, 1958, or if the use had been registered within six months after May 12, 1958, the flat would be a legal non-conforming use, and no action by the Board would be necessary.
9. There was no opposition to the application.


CONCLUSIONS OF LAW:

Based on the record the requested variance is a use variance which under the present Zoning Regulations requires a showing of a hardship. However, the premises had been used as a flat prior to May 12, 1958 the effective date of the Zoning Regulations. Granting the application would not result in the institution of a new use, nor would it increase the density in the area. Rather, it would only serve to legalize an existing use which is not non-conforming because of the failure to secure proper permits. Granting the continuation of the present use would result in the applicant being able to make reasonable use of the property that is compatible with the existing structure, not detrimental to the public good and would not impair the intent, purpose and integrity of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-1 (William F. McIntosh, Charles R. Norris and Chloethiel Woodard Smith to GRANT, Leonard L. McCants to DENY; Ruby B. McZier, not present, not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 16 SEP 1977

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.